

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 200

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO THE OCCUPANCY TAX; AMENDING SECTION 63-317, IDAHO CODE, TO PROVIDE FOR NEWLY CONSTRUCTED IMPROVEMENTS, UPON WHICH NO OCCUPANCY TAX HAS BEEN CHARGED, TO PROVIDE THAT THE COUNTY ASSESSOR SHALL NOTIFY THE OWNER OR LANDOWNER THAT THE IMPROVEMENT WILL BE CONSIDERED OCCUPIED FOR THE CURRENT YEAR BY A CERTAIN DATE, TO DELETE PROCEDURES FOR NOTIFYING THE COUNTY BOARD OF EQUALIZATION AND TO DELETE CERTAIN PENALTIES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-317, Idaho Code, be, and the same is hereby amended to read as follows:

63-317. OCCUPANCY TAX -- PROCEDURES. (1) All real property subject to property taxation shall be valued and taxed based upon its status as of January 1 of each tax year. Improvements, other than additions to existing improvements, constructed upon real property shall not be subject to property taxation during the year of construction other than that portion actually in place as of January 1 of each calendar year; new manufactured housing shall not be subject to property taxation during the first year of occupancy if occupied after January 1. For the purposes of this section, "new manufactured housing" means manufactured housing, whether real or personal, never previously occupied.

(2) There is hereby levied an occupancy tax upon all newly constructed and occupied residential, commercial and industrial structures, including new manufactured housing, except additions to existing improvements or manufactured housing, prorated for the portion of the year for which the structure was occupied. The occupancy tax shall be upon those improvements or new manufactured housing for that portion of the calendar year in which first occupancy occurs. The occupancy tax does not apply to operating property. For the purposes of this section, the term "occupied" means:

(a) Use of the property by any person as a residence including occupancy of improvements or use in storage of vehicles, boats or household goods, provided such use is not solely related to construction or sale of the property; or

(b) Use of the property for any business or commercial purpose unrelated to the construction and sale of the property; or

(c) Any possessory use of the property for which the owner received any compensation or consideration.

~~(3) The owner of any newly constructed improvement or new manufactured housing, as described in this section, upon which no occupancy tax has been charged shall report to the county assessor that the improvement or new manufactured housing has been occupied. As soon as practical after receiving such a report, the county assessor shall appraise and determine the market~~

~~value for assessment purposes~~ For newly constructed improvements, upon which no occupancy tax has been charged, the county assessor shall notify, unless an alternate process for determining occupancy is used, the owner or landowner by March 15 each year that the improvement will be considered occupied for the current tax year unless the owner indicates by April 15 that the improvement is still unoccupied. If the property is considered occupied for the current tax year, the county assessor shall appraise and determine the market value for assessment purposes.

(a) At the time the county assessor determines the market value for assessment purposes of any improvement, he shall allow as an offset against the market value of the improvement, the market value of any portion of that improvement which was existing on January 1 and placed upon the property roll.

(b) Upon completion of the appraisal, the county assessor shall notify the owner of the appraisal, and further shall notify the owner of their right to apply for the exemption provided in sections 63-602G and 63-602X, Idaho Code. If the owner applies for and meets the requirements for such exemption within thirty (30) days of the notification by the county assessor, the exemption shall be extended to the newly constructed and occupied residential structures in compliance with section 63-602G, Idaho Code, notwithstanding limitations requiring occupancy as of January 1 of the tax year.

~~(c) In the event that the owner fails to report to the county assessor that the property is ready for occupancy, the assessor shall notify the county board of equalization, who may impose as penalty an additional amount equal to five percent (5%) of the tax for each month following the date of first occupancy during which the report is not made, to a maximum of twenty-five percent (25%) of the tax.~~

(4) Appeals of the market value for assessment purposes shall be resolved in the same manner as all other appeals of valuation by the board of equalization.

(5) The occupancy tax calculated upon the values set by the county assessor, ~~and any penalty imposed by the board of equalization~~ shall be collected in the same manner as all other property taxes.

(6) An occupancy tax lien shall be imposed in the manner provided in section 63-206, Idaho Code.

(7) Occupancy taxes shall be billed, collected and distributed in the same manner as all other property taxes.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2011.